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## EQUAL EMPLOYMENT OPPORTUNITY

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*APPLICATION: Full-time and part-time classified, probationary, "at will," and wage employees, and applicants for employment.*

### PURPOSE

Provides that all aspects of human resource management be conducted without regard to race, sex, color, national origin, religion, sexual orientation, age, veteran status, political affiliation, or disability in accordance with the Governor's Executive Order on Equal Opportunity and state and federal laws. (For the purpose of this policy "disability" is defined in accordance with the "Americans With Disabilities Act.")

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### DEFINITIONS

#### BFOQ

(*Bona fide* occupational qualification) An exception to the restrictions of Title VII of the Civil Rights Act (1964) regarding discrimination on the basis of sex, religion, and national origin that, under certain conditions, legitimately may require an employer to require an individual of a specific sex, national origin or religious affiliation to staff a certain job.

#### Disability

An individual is considered to have a disability if that individual either (1) has a physical or mental impairment which substantially limits one or more of his or her major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment.

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### PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER

The Governor's Executive Order on Equal Opportunity includes the following provisions:

#### Prohibits Discrimination

Prohibits employment discrimination on the basis of race, sex, color, national origin, religion, sexual orientation, age, veteran status, political affiliation, or against otherwise qualified persons with disabilities.

Does not permit the lowering of *bona fide* job requirements, performance criteria, or qualifications in order to give preference to any state employee or applicant for state employment on the basis of the above prohibitions.

Prohibits all employees, including agency heads, managers, and supervisors from taking retaliatory action against any person making allegations of violations of the Executive Order.

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**Emphasizes  
Recruitment Efforts**

Directs agency heads and managers to take measures, as determined by the Director of the Department of Human Resource Management (DHRM), to emphasize the recruitment of qualified minorities, women, persons with disabilities, and older persons to serve at all levels of state government.

**Provides Procedures  
For Alleging Violations  
Of Executive Order**

Any state employee or applicant for state employment may file an allegation of violation of the Executive Order with the Office of Equal Employment Services (OEES) in the Department of Human Resource Management.

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**EMPLOYMENT  
PRACTICES  
COVERED**

The prohibition against employment discrimination applies to all aspects of the hiring process and employment practices, including:

- hiring, demotion, promotion, role change, in-band adjustment, layoff, and transfer;
- application of performance management and employee development;
- application of corrective actions, including disciplinary actions; and
- compensation, pay practices, and other terms, conditions, and privileges of employment.

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**EXECUTIVE ORDER  
COMPLIANCE**

**Cabinet/Agency  
Responsibilities**

All Cabinet secretaries, agencies and their employees are responsible for complying with the prohibition against workplace discrimination.

Develop Policy  
Statement And  
Inform Employees

- Each agency is required to develop an equal employment opportunity compliance policy statement, and to inform employees of the Executive Order and the agency's commitment to equal employment opportunity.

Individual  
Responsibility/Job  
Performance

- Agency heads, managers, and supervisors are responsible for their agencies' compliance with this policy, and for the consistent application of this policy. Support of equal employment opportunity initiatives shall be considered in the evaluation of each manager's job performance. All employees are responsible for conducting themselves in a manner consistent with the Governor's Executive Order.

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Management/  
Supervisory Training

- Agencies are responsible for providing appropriate training opportunities covering all aspects of human resource management to ensure that policies, guidelines and pay practices are applied without regard to race, sex, color, national origin, religion, sexual orientation, age, veteran status, political affiliation, or disability.

EEO Compliance  
Review

- In accordance with guidelines issued by DHRM, agencies shall provide complete and accurate data via the State's automated information system by August 1 of each year for the prior fiscal year to generate a statistical analysis report of employment related practices.

**DHRM  
Responsibilities**

The Office of Equal Employment Services (OEES) of DHRM is responsible for ensuring compliance with the Executive Order as outlined below.

Distributes Executive  
Order

- Distributes the Executive Order to state agencies along with explanation of its provisions and the state employment discrimination prohibition.

Investigates  
Charges

- Investigates and resolves charges of unlawful discrimination or other violations of the Executive Order.
  - \* Resolutions will be within the scope of established federal and state law and have the concurrence of the Office of the Attorney General.
  - \* Resolutions shall be in writing and may include recommendations for monetary awards as well as recommendations for corrective and disciplinary actions.

Conducts Compliance  
Reviews

- Conducts EEO compliance reviews and mandates appropriate corrective action to ensure fairness and equity in all employment practices.
  - \* Reviews will be within the scope of established federal and state law.
  - \* Corrective action shall be in writing and approved by the Director of the DHRM.

Provides Assistance to  
Agencies

- Assists agencies in their compliance with the equal employment opportunity provisions of the Executive Order by:
  - \* issuing guidelines, in accordance with Title 29, Part 1608 of the Code of Federal Regulations, and other applicable federal and state laws, for agencies required to maintain affirmative actions plans;
  - \* investigating complaints of unlawful discrimination and conducting compliance reviews upon the request of the

	Governor's Office or agency head;
	<ul style="list-style-type: none"><li>* conducting/coordinating training on equal employment laws for state employees; and</li><li>* maintaining current lists of agency EEO officers, and of groups representing women, minorities, and others who may be affirmatively recruited, and making such lists available to interested persons.</li></ul>
	<ul style="list-style-type: none"><li>• Acts as a reference source regarding information on equal employment opportunity for state government.</li><li>• Ensures that agencies maintain appropriate human resource data for EEO reporting purposes in the statewide automated data system.</li></ul>
Serves As Liaison With Federal Agencies	<ul style="list-style-type: none"><li>• Serves as liaison between the Commonwealth and federal agencies concerned with equal employment opportunity by:<ul style="list-style-type: none"><li>* assisting agencies in responding to federal inquiries regarding equal employment opportunity practices; and</li><li>* reporting for the Commonwealth, as required by any federal agency concerned with equal employment opportunity enforcement.</li></ul></li></ul>

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**AUTHORITY**

The Department of Human Resource Management issues this policy pursuant to the authority provided in Chapter 12, Title 2.2 of the Code of Virginia.

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**INTERPRETATION**

The Director of the Department of Human Resource Management is responsible for official interpretation of this policy, in accordance with Chapter 12, Title 2.2 of the Code of Virginia. Questions regarding the application of this policy should be directed to the Department of Human Resource Management's Office of Agency Human Resource Services

The Department of Human Resource Management reserves the right to revise or eliminate this policy.

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